

BEFORE THE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

Appeal of:

HUNTERS CREEK PARTNERSHIP)	
Map 58, Parcel 32.11, SI 000)	Wilson
Commercial Property)	County
Tax Year 2005)	

FINAL DECISION AND ORDER

Statement of the case

This is an appeal by the taxpayer from the initial decision and order of the administrative judge who recommended the appeal be dismissed for lack of jurisdiction.

The subject property is currently assessed as follows:

Land value	Improvement value	Total value	Assessment
\$519,500	\$10,598,500	\$11,418,000	\$4,567,200

The appeal was heard in Nashville on October 24, 2006 before Commission members Stokes (presiding), Gilliam and White.¹ Hunters Creek Partnership was represented by Mr. John T. Blankenship, and the assessor was assisted by Mr. Derrick Hammond, TMA, a staff appraiser from the Division of Property Assessments which helped the county in its reappraisal.

Findings of fact and conclusions of law

With regard to the issue of jurisdiction, Mr. Thomas Ford testified that on May 3, 2005 he sent a letter to the assessor requesting to appeal on behalf of Hunters Creek Partnership after receiving notice of the changed assessment for tax year 2005. He further testified that he received no reply to this letter, and that repeated phone calls were invariably met with a busy signal. There was no rebuttal to this testimony from the assessor, and we find the taxpayer has established reasonable cause for not appearing before the county board of equalization. The taxpayer timely requested to appeal and the assessor made no response.

The subject property is the 192 unit Hunters Creek apartment complex constructed in 2001 in Lebanon. The complex sits on 18.89 acres, and there are also three mini-storage buildings with a maintenance office. Mr. Ford testified that although he is not an appraiser (he is a certified public accountant with past experience as an investment broker), he believes the assessor's witness has used an insufficient

¹ Mr. Gilliam sat as a designated alternate for an absent member, pursuant to Tenn. Code Ann. §4-5-302.

capitalization rate in his income approach. In addition to detailed income and expense information for the property, Mr. Ford submitted a RealtyRates.com survey in support of his contention that a 10% cap rate should be substituted in Mr. Hammond's income approach for the property, and with other differences he argued a value of \$8,763,000 for the subject property.²

Mr. Hammond presented an appraisal that included the three traditional approaches to value which he reconciled to a conclusion of \$11,327,000. He relied primarily on the income approach and used a cap rate of 9.05% based on a Real Estate Research Corporation report that compared the national and Nashville area markets. Although Mr. Ford argues that Lebanon is not Nashville and there should be some adjustment of the cap rate to account for the difference in these markets, Mr. Ford did not present an alternative other than his own contention (10%) which was also derived from the Nashville market. Accordingly, the Commission finds that the most persuasive evidence of value is the income approach offered by Mr. Hammond.

In comparing Mr. Hammond's income approach with the actual performance of this property, we are persuaded that the vacancy rate should be adjusted to reflect the actual lease-up experience of Hunters Creek. Two years after construction, the complex was still averaging 18% vacancy, a fact that probably reflects the slower market in Lebanon. For the 2005 year, potential investors in this property would probably expect something greater than the 7% vacancy used by Mr. Hammond. Considering the actual results for past years, we find Mr. Hammond's income approach should be modified to reflect a 10% vacancy rate. With this change, the value indicator is \$10,351,500.

ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is modified and the assessment of the subject property is determined as follows for tax year 2005:

Land value	Improvement value	Total value	Assessment
\$519,500	\$9,832,000	\$10,351,500	\$4,140,600

This order is subject to:

² Substituting a 10% cap rate in Mr. Hammond's appraisal actually yields \$9,886,910 rather than the \$8,763,380 value urged by Mr. Ford. Mr. Ford included property taxes in operating expenses, while Mr. Hammond omitted them and instead added a tax rate component to his cap rate. Although appraisers generally may use either method in accounting for property taxes, appraisals for property tax purposes usually factor the tax into the cap rate rather than operating expenses. Without the tax rate component Mr. Hammond's cap rate drops to 7.75% rather than 9.05%, and the comparative difference in cap rates is larger than it appears.

1. Reconsideration by the Commission, in the Commission's discretion.

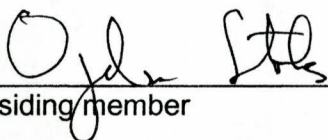
Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within thirty (30) days from the date of this order.

3. Review by the Chancery Court of Davidson County. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

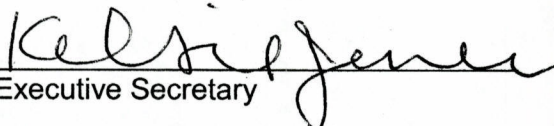
Requests for stay of effectiveness will not be accepted.

DATED: Jan. 9, 2007



Presiding member

ATTEST:



Executive Secretary

cc: Mr. John Blankenship, Esq.
Mr. Jimmy Locke, Assessor
Mr. Derrick Hammond, State Division of Property Assessments